

## Legislation Details (With Text)

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<b>File #:</b>	21-579	<b>Name:</b>	
<b>Type:</b>	Report	<b>Status:</b>	Individual Item Ready
<b>File created:</b>	6/3/2021	<b>In control:</b>	City Council
<b>On agenda:</b>	6/28/2021	<b>Final action:</b>	
<b>Title:</b>	Discuss and consider a waiver from Section 118-49(a) of the Subdivision Platting Ordinance to allow an alternative pedestrian access plan adjacent to existing Zipp Road for the Highland Ridge Subdivision.		

**Sponsors:****Indexes:****Code sections:****Attachments:** 1. Aerial Map, 2. Applicant's Letter of Waiver Justification, 3. Highland Ridge, Unit 1 Proposed Plat Exhibit, 4. Alternative Pedestrian Access Plan Exhibit, 5. WVR21-162 (HM) PC Draft Minutes 6-1-21

Date	Ver.	Action By	Action	Result
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**PRESENTER:**

Christopher J. Looney, AICP; Planning and Development Services Director

**SUBJECT:**

Discuss and consider a waiver from Section 118-49(a) of the Subdivision Platting Ordinance to allow an alternative pedestrian access plan adjacent to existing Zipp Road for the Highland Ridge Subdivision.

**DEPARTMENT:** Planning and Development Services**COUNCIL DISTRICTS IMPACTED:** City Council District 2**BACKGROUND INFORMATION:**

**Applicant:** HMT Engineering & Surveying (Chris Van Heerde, P.E.)  
290 S. Castell Avenue, Suite 100  
New Braunfels, TX 78130  
(830) 625-8555      plats@hmtnb.com

**Owner:** NB Corridor Investments, LLC (Fred Heimer)  
130 S. Seguin Ave., Suite 100  
New Braunfels, TX 78130  
(830) 625-8410      fred.heimer@sv-re.com

**Staff Contact:** Matt Greene  
(830) 221-4053      mgreene@nbtexas.org

**ISSUE:**

The proposed Highland Ridge Subdivision is located on West Zipp Road, south of the Legend Pond Neighborhood, is comprised of 58.62 acres proposed for the development of 338 single-family residential lots and is zoned “ZH-A” Zero Lot Line Home District. The subdivision master plan was approved in July of 2019 with a Master Plan Minor Revision approved in March of this year.

Section 118-46 of the Subdivision Platting Ordinance requires four-foot wide public sidewalks to be constructed by the developer adjacent to all internal subdivision streets and perimeter streets. However, an exception may be granted by the Planning Commission and City Council to allow an alternative pedestrian access plan or complete exemption from the requirement for sidewalks.

The applicant is requesting a waiver to allow an alternative pedestrian access plan for the section of sidewalk required to be constructed adjacent to existing Zipp Road, a local perimeter street. The majority of the proposed sidewalk will be constructed within the right-of-way adjacent to existing Zipp Road as required, however, the applicant indicates roadside ditches, a culvert crossing and non-centered pavement present drainage, grading and pedestrian safety concerns for the installation of the sidewalk in the right-of-way near the 90 degree angle of Zipp Road and proposed detention basin for the subdivision. Therefore, the applicant is requesting approval of the alternate pedestrian path around the west side of the proposed detention basin in the southeastern corner of Unit 1.

Per the Subdivision Platting Ordinance, all sidewalk waiver requests recommended for approval, or approval with conditions, by the Planning Commission will be forwarded to City Council for final consideration. If the Planning Commission denies the waiver request, that denial stands.

The ordinance authorizes waivers to be granted when:

1. An undue hardship will result from strict compliance with the ordinance, or
2. When the purpose of the regulation may be served to a greater extent by an alternative proposal, so that substantial justice may be done, and the public interest is secured.

The ordinance also states a waiver may not be approved unless it is found that:

1. Granting the waiver will not be detrimental to the public safety, health or welfare, and will not be injurious to other property or to the owners of other property, and the waiver will not prevent the orderly subdivision of other property in the vicinity;
2. Because of the particular physical surroundings, shape and/or topographical conditions of the specific property involved, a particular hardship to the property owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out; or an alternate design will generally achieve the same result or intent as the standards and regulations prescribed herein; and
3. The waiver will not in any manner vary the provisions of the Zoning Ordinance or other ordinance(s) of the City.

In considering this waiver request, City Council has three options:

1. Approve the waiver request for the alternative pedestrian access plan as presented;
2. Deny the waiver request and require sidewalk construction in the right-of-way adjacent to existing Zipp Road for the entire length of the sidewalk;

3. Approve with modifications to the applicant's proposed alternative pedestrian access plan.

**FISCAL IMPACT:**

N/A

**RECOMMENDATION:**

**Committee Recommendation**

On June 1, 2021 the Planning Commission recommended approval of the alternative pedestrian access plan. (8-0-0 with Commissioner Meyer absent)

**Staff Recommendation**

Staff recommends approval of the alternative pedestrian access plan as presented as the purpose of the regulation is better served by the alternative pedestrian access plan and will provide a safer route for pedestrians. In addition, the linear distance of the travel path of the sidewalk as proposed in the alternative pedestrian access plan is no greater than the linear distance of the travel path of the sidewalk if it were constructed adjacent to existing Zipp Road for the entire distance of the sidewalk.

*Attachments:*

Aerial Map

Applicant's Letter of Waiver Justification

Highland Ridge, Unit 1 Proposed Plat Exhibit

Alternative Pedestrian Access Plan Exhibit

Draft Planning Commission Meeting Minutes